

CHAPTER NO. 833

HOUSE BILL NO. 2160

By Representatives Bunch, Black

Substituted for: Senate Bill No. 2234

By Senator Miller

AN ACT to amend Tennessee Code Annotated, Section 40-35-304, relative to restitution.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-35-304, is amended by adding the following language as a new, appropriately designated subsection:

()

(1) Notwithstanding the provisions of any law to the contrary, upon expiration of the time of payment or the payment schedule imposed pursuant to subsection (c) or (g), if any portion of such restitution remains unpaid, then the victim or the victim's beneficiary may convert the unpaid balance into a civil judgment in accordance with the procedure set forth within this subsection.

(2) Within the twelve (12) month period following expiration of the time of payment or the payment schedule imposed pursuant to subsection (c) or (g), the victim or the victim's beneficiary may file a certified copy of the restitution order with an appropriate civil court having jurisdiction over the total amount of restitution ordered.

(3) At the same time the victim or victim's beneficiary files a certified copy of the restitution order with the civil court, such victim or victim's beneficiary shall have the defendant personally served in accordance with the Tennessee rules of civil procedure. Such service shall give notice to the defendant of the victim's or victim's beneficiary's intent to convert the restitution order to a civil judgment, include a copy of the restitution order and a statement as to the amount of unpaid restitution the victim or victim's beneficiary alleges the defendant still owes.

(4) Upon being served, the defendant shall be permitted to file an answer in accordance with the rules of civil procedure.

(5) Upon service of the defendant and receipt of the defendant's answer, if any, the civil court shall conduct a hearing in order to take proof as to the amount of ordered restitution actually paid. Both the victim or victim's beneficiary and the defendant shall be permitted to offer proof at this hearing. If the court finds by a preponderance of the evidence presented that the amount of restitution actually paid is less than the total amount of restitution ordered pursuant to subsections (c) or (g), then the court shall enter a judgment in favor of the victim or the victim's beneficiary and against the defendant for the amount of the unpaid balance of such restitution.

(6) At the hearing conducted in accordance with subpart (5) of this subsection, the only issues over which the court shall have jurisdiction is whether the defendant was properly served in accordance with the rules of civil procedure, whether the restitution order entered against the defendant pursuant to this section has been satisfied by the defendant and, if not, the amount of restitution still owed by the defendant.

(7) A civil judgment entered pursuant to this subsection shall remain in effect for a period of ten (10) years from the date of entry and shall be enforceable by the victim or the victim's beneficiary in the same manner and to the same extent as other civil judgments are enforceable.

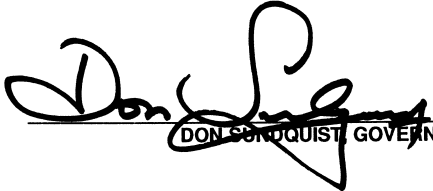
SECTION 2. This act shall take effect July 1, 2000, the public welfare requiring it.

PASSED: May 17, 2000


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 24th day of May 2000


DON SUNDQUIST, GOVERNOR